

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Yelcot Video Group, Inc.)	
)	
Petition for a Limited Waiver of the CAP)	EB Docket No. 04-296
Compliance Obligations Contained in Part 11)	
of the Commission's Rules)	
)	
To: Chief, Public Safety and Homeland)	
Security Bureau)	

**PETITION FOR A LIMITED WAIVER OF THE
CAP COMPLIANCE OBLIGATIONS**

I. Introduction and Summary

On behalf of Yelcot Video Group, Inc. ("Yelcot"), pursuant to Sections 1.3 and 11.52(d)(4) of the Commission's rules,¹ we submit this request for a waiver of the Common Alerting Protocol compliance deadline in 47 C.F.R. § 11.56(a). Yelcot has started construction to interconnect six analog systems with Yelcot's digital headend in Gassville, Arkansas, and requests a six-month waiver of the Commission's CAP-compliance rules until the planned interconnection is complete.² Yelcot has installed CAP-compliant equipment at its Gassville headend.³

It would be economically wasteful for Yelcot to upgrade these six headends for CAP compliance given the short time that they will remain operable, only to discard the upgraded facilities when the headends are interconnected. Accordingly, Yelcot requests

¹ 47 C.F.R. § 1.3 (providing for the waiver of the Commission's rules "for good cause shown"), § 11.52(d)(4) (indicating that where an EAS message source cannot be received a waiver of the CAP compliance rules may be obtained by written request to the Chief, Public Safety and Homeland Security Bureau).

² See *Exhibit B*, Yelcot Systems.

³ See *id.*, the Gassville headend is associated with PSID 021510.

this waiver of the Commission's CAP-compliance rules so that it may avoid incurring unnecessary expenses.

We organize this Petition as follows:

- Background information on Yelcot
- Justification for the Requested Waiver
- Conclusion

III. Background

Yelcot provides cable TV services to 12 remote, rural communities in northern Arkansas. Headquartered in the town of Mountain Home, Arkansas – 152 miles north of Little Rock – Yelcot is an independent telecommunications company providing local telephone, Internet, and video service. At this time, Yelcot operates seven separate cable systems.⁴

To upgrade its systems and provide customers with more competitive services, Yelcot plans to convert all of its systems to digital.⁵ Once complete, Yelcot will serve its customers from a single headend located in Gassville, Arkansas. To accomplish this system interconnection in an orderly and efficient manner, with the least possible disruption to its customers and communities, Yelcot has developed a plan that contemplates upgrading, interconnecting, and consolidating its six headends into the Gassville headend on or before December 31, 2012.

IV. Justification for Requested Waiver

The Commission may waive its rules for good cause shown.⁶ The Commission may exercise its waiver authority where grant of the waiver does not undermine the policy served by the rule, and where particular facts make strict compliance inconsistent

⁴ See *Exhibit B*, Yelcot Systems.

⁵ See *Exhibit A*, Declaration of Clint Czeschin, ¶ 2 (“*Czeschin Declaration*”).

⁶ 47 C.F.R. § 1.3. See also *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“FCC has authority to waive its rules if there is “good cause” to do so.”).

with the public interest.⁷ Good cause exists for granting Yelcot's request because granting the waiver will not undermine the policy served by the CAP compliance rules, while strict enforcement of the compliance deadline would result in unnecessary and unjustified economic waste.

a. Grant of the waiver will not undermine the policy served by the EAS CAP compliance rules.

In the *EAS Fifth Report and Order*, the Commission continued its on-going process of modernizing the Part 11 Emergency Alert System ("EAS") rules with the stated goal of making them more flexible and robust, to accommodate a wide array of modern digital communications media, and to integrate EAS with other public alert and warning systems.⁸ To accomplish these goals, the Commission revised its EAS rules to specify the manner in which EAS Participants must receive CAP-formatted alert messages while continuing to distribute those messages in the legacy EAS format over the current broadcast-based EAS.⁹ The Commission noted its belief that the new CAP rules will make public alerts disseminated through the EAS more effective and informative.¹⁰

Granting Yelcot's waiver request will not undermine these policy goals. Yelcot intends to interconnect and consolidate its systems into the Gassville headend by December 31, 2012.¹¹ In the interim, the non-complaint systems will continue to receive

⁷ See *WALT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

⁸ *In the Matter of Review of the Emergency Alert System, Fifth Report and Order*, 27 FCC Rcd 642, ¶ 2 (2012) ("*EAS Fifth Report and Order*").

⁹ *Id.*, ¶ 3.

¹⁰ *Id.*, ¶ 5.

¹¹ *Czeschin Declaration*, ¶ 3.

and transmit EAS messages as before,¹² and will carry broadcast channels that should be CAP compliant. As a result, the impact on consumers will be negligible and for a limited time. Furthermore, because subscribers will be interconnecting into the Gassville system incrementally any impact will decrease over time.

In addition, granting the instant waiver has an insignificant impact on the EAS system as a whole. The Yelcot systems provide services to only 2,039 of subscribers. This number represents a negligible percentage of the total consumers served by all EAS Participants. As such, grant of this waiver does not undermine the Commission's goal of modernizing the EAS system and integrating it with other alert systems. Achievement of these policy objectives will continue unabated.

b. Failure to grant a waiver to Yelcot will result in economic waste.

Strict compliance with the new CAP compliance standards for systems that Yelcot intends to interconnect within a six-month period will require Yelcot to incur upgrade expenses that will be unrecoverable with the systems being interconnected.¹³ In the *EAS Fifth Report and Order*, the Commission acknowledged that there are costs associated with upgrading and installing the equipment necessary for CAP compliance and crafted its rules to avoid, where possible, any unnecessary and unjustified costs associated with CAP compliance.¹⁴ Granting Yelcot's waiver request is consistent with the Commission's efforts to avoid unnecessary and unjustified costs associated with CAP compliance.

¹² *Czeschin Declaration*, ¶ 4.

¹³ *Id.*

¹⁴ *EAS Fifth Report and Order*, ¶ 72 (allowing the use of intermediary devices because "imposition of the costs associated with the purchase of replacement EAS equipment is unnecessary and unjustified").

c. Commission precedent supports a waiver under these facts.

In 2003, the Media Bureau granted an EAS waiver under almost identical facts. At that time, Mediacom requested a waiver of the EAS requirements while it “embarked on a capital expenditure to upgrade, interconnect and consolidate its cable systems.”¹⁵ Like Yelcot, Mediacom argued that strict compliance would require it to incur costs that would be quickly lost due to planned system upgrades.¹⁶ Here, Yelcot would suffer economic waste if it is required to upgrade its systems that are slated for interconnection and consolidation by the end of 2012. The Commission should avoid this unnecessary economic loss and grant Yelcot’s limited waiver request.

¹⁵ *In the Matter of Mediacom Communications Corporation; Operator of Cable Systems in the States of: Alabama, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri and Wisconsin; Request for Waiver of Section 11.11(a) of the Commission’s Rules*, File No. EB-02-TS-617, 18 FCC Rcd 7656, ¶ 3 (2003) (granting a 12-month waiver of the October 1, 2002 EAS implementation deadline because requiring strict compliance would result in economic waste).

¹⁶ *Id.*

V. Conclusion

Yelcot has demonstrated good cause for the Commission to waive its EAS CAP-compliance requirements for the six systems, scheduled for interconnection by the end of 2012. Granting this waiver does not undermine the purpose or policy behind the CAP compliance requirements, will not harm consumers, and will avoid unnecessary and unjustified costs consistent with the *EAS Fifth Report* and Order and Commission precedent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrea N. Person".

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June 29, 2012

EXHIBIT A

DECLARATION OF CLINT CZESCHIN

1. My name is Clint Czeschin and I am Vice President of Yelcot Video Group, Inc.
2. Yelcot is in the process of upgrading its systems from analog to digital. As a result, Yelcot has decided to interconnect and consolidate its systems into its headend at Gassville, AR.
3. To accomplish this system interconnection in an orderly and efficient manner and with the least possible disruption to its customers and the communities in which they live, Yelcot has developed a system interconnection plan that contemplates connecting these systems into the Gassville headend by December 31, 2012.
4. Yelcot will continue to operate legacy EAS equipment in the systems until it completes the interconnection.
5. I have read the foregoing "Petition for a Limited Waiver of the CAP Compliance Obligations" (the "Waiver Request") and I am familiar with its contents.
6. I declare under penalty of perjury that the facts contained herein and within the foregoing Waiver Request are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Waiver Request is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.



Clint Czeschin
Vice President
Yelcot Video Group, Inc.
P.O. Box 1970
Mountain Home, AR 72654

June 29, 2012.

EXHIBIT B

YELCOT SYSTEMS

System Name	FCC CUIDs	PSID	Number of Subscribers
Yellville	AR0059, AR0113	001835	369
Melbourne	AR0377	002561	342
Pineville	AR0368, AR0371	002562	260
Mount Pleasant	AR0152	007750	34
Mountain View	AR0139	009011	908
Diamond City	AR0360, AR0361	009749	121
Gassville	AR0725, AR0726, AR0727	021510	5